

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 02-10135-RWZ

PATRICK D. O'CONNELL

v.

JO ANNE B. BARNHART, COMMISSIONER, SOCIAL SECURITY ADMINISTRATION

MEMORANDUM OF DECISION AND ORDER

March 24, 2003

ZOBEL, D.J.

Plaintiff Patrick D. O'Connell brings this action under 42 U.S.C. § 405(g) to reverse a final decision of defendant Commissioner of the Social Security Administration, denying him disability benefits. Plaintiff applied for supplemental security income on January 15, 1997. A hearing was held before an Administrative Law Judge ("ALJ") on March 31, 1998. Plaintiff appeared but was unrepresented by counsel. On July 16, 1998, the ALJ denied plaintiff's application.¹ The ALJ based the denial on findings that plaintiff's physical disabilities did not preclude him from performing his past relevant work as a gas station pump attendant, that he had "no non-substance abuse related mental limitations," and that "[a]lcoholism is a contributing factor material to the determination of the claimant's disability."

On the record before him, the ALJ had some indication that in addition to chronic alcoholism, plaintiff might suffer from bipolar disorder. A psychiatrist noted plaintiff's

¹ On November 20, 2001, the Appeals Council denied plaintiff's timely request for review, rendering the ALJ's decision the final decision of the Commissioner.

family history of manic depressive illness and concluded that “it is clear that he seems to medicate himself with alcohol, which raises the question of a mild unipolar state or possibly a tendency toward bipolar mood swings. This could be evaluated further.” At the hearing the ALJ gave plaintiff a month to supplement the record with a further psychiatric diagnosis. Plaintiff submitted a May 14, 1998, letter from a psychiatrist at Faulkner Hospital that merely said that plaintiff “will begin a medication trial for his illness.” The letter did not specify what plaintiff’s illness was. After the ALJ’s decision, however, three doctors reported that plaintiff suffers from and is being treated for Bipolar Disorder Type I.

In a non-adversarial Social Security proceeding, the ALJ has a duty to

develop an adequate record from which a reasonable conclusion can be drawn. . . . [T]his responsibility increases in cases where the appellant is unrepresented, where the claim itself seems on its face to be substantial, where there are gaps in the evidence necessary to a reasoned evaluation of the claim, and where it is within the power of the administrative law judge, without undue effort, to see that the gaps are somewhat filled – as by ordering easily obtained further or more complete reports or requesting further assistance from a social worker or psychiatrist or key witness.

Heggarty v. Sullivan, 947 F.2d 990, 997 (1st Cir. 1991) (citations and internal quotation marks omitted). In the present case, the ALJ made no effort to request further assistance from plaintiff’s psychiatrist and instead denied plaintiff’s claim on the basis of an incomplete record. A remand is therefore necessary for defendant Commissioner to develop an adequate record on the question of whether plaintiff’s bipolar disorder entitles him to supplemental security income.

Accordingly, plaintiff’s Motion to Reverse the Decision of the Commissioner of the Social Security Administration is allowed, and defendant’s Motion for Order

Affirming the Decision of the Commissioner is denied. The case is remanded for full consideration of plaintiff's mental impairments.

DATE

RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE